

## **ATTACHMENT B**

1 IN THE CIRCUIT COURT OF MILWAUKEE COUNTY  
2 STATE OF WISCONSIN  
3 - - - - -

4 WISCONSIN HOUSING AND ECONOMIC  
5 DEVELOPMENT AUTHORITY,  
6 Plaintiff,

7 v. Case No. 07-CV-013965  
8

TRI-CORP HOUSING, INC.,

9 Defendants and Third-Party  
10 Plaintiff,

Community BANK GROUP f/k/a LINCOLN  
11 COMMUNITY BANK, RELIABLE WATER SERVICES, LLC,  
MILWAUKEE COUNTY HOME REPAIR, AND  
ZIGNEGO READY MIX, INC.,

12 Added Defendants,

13 v.

14 WISCONSIN HOUSING AND ECONOMIC  
15 DEVELOPMENT AUTHORITY AND  
ROBERT BAUMAN, ALDERMAN,

16 Third-Party Defendants.  
17 - - - - -

19 Deposition of MICHAEL S. BREVER

20 March 10, 2009

21 10:00 a.m.

22 GONZALEZ SAGGIO & HARLAN LLP

23 225 East Michigan Street

24 Milwaukee, Wisconsin

25 Reported by David J. Sikora, RPR, RMR, CRR

## P R O C E E D I N G S

MICHAEL S. BREVER was called as a witness herein, having been first duly sworn on oath, was examined and testified as follows:

(Exhibit Numbers 1 and 2 were marked for identification)

## EXAMINATION

BY MR. KRILL:

9 Q Mr. Brever, would you state your full name for the  
10 record?

11 A My name is Michael Stephen Brever.

12 Q And, Mr. Brever, what is your current occupation?

13 A I'm the executive director of Tri-Corp Housing.

14 | Q Is that a corporation?

15 A It is.

16 Q And how long have you been the executive director?

17 A Tri-Corp was created in 1998, and I was the initial  
18 executive director.

19 Q I want to show you -- we have Exhibits Number 1 and  
20 2. Exhibit Number 1 is the notice for your  
21 deposition?

22 A Okay.

23 Q Yes?

24 A Yes.

25 Q And you're appearing today pursuant to that notice,

1 A There is no real estate in Housing With Help's name.

2 Q Okay. So but there was real estate in Housing With

3 Help's name prior to that time, was there not?

4 A That is correct.

5 Q So that real estate was transferred to Tri-Corp.

6 A Tri-Corp. Right.

7 Q So South Community Organization still exists, and

8 the real estate still is in its name, correct?

9 A There are parcels of real estate in South

10 Community's name, that is correct.

11 Q And Southeast Affordable Housing, there are still

12 parcels of real estate in its name, correct?

13 A Yes.

14 Q And then whatever real estate Housing With Help has,

15 or had, is in the name of Tri-Corp, correct?

16 A That is correct.

17 Q Does South Community Organization, does it file a

18 separate tax return?

19 A It does not.

20 Q How about Southeast Affordable Housing?

21 A It does not.

22 Q I want to identify -- well, this lawsuit, this

23 foreclosure lawsuit concerns -- part of it is

24 property that's known as West Samaria, correct?

25 A That is correct.

1 Q And that's located 1200 Richards Street?

2 A No. 2713 West Richardson Place.

3 Q Okay. I want to focus on January 1, 2007. And  
4 looking at this, the SCO organization, the Southeast  
5 Affordable Housing, and the Tri-Corp Housing With  
6 Help, it's my understanding that as of January 1,  
7 2007 that there were three loans outstanding with  
8 WHEDA, my client, correct?

9 A I believe that's correct, yes.

10 (Exhibit Number 3 was marked for  
11 identification)

12 MR. KRILL:

13 Q I want to show you what we've marked as Exhibit  
14 Number 3. And can you identify this as copies of  
15 the note and mortgage for the Housing With Help loan  
16 which is the subject of this foreclosure action?

17 A Well, I know why you call it Housing With Help, but  
18 I believe in 2003, at the writing of this note, at  
19 the request of WHEDA, the property was changed in  
20 the name of Tri-Corp.

21 Q Okay. All right.

22 A But yes.

23 Q Let's just look at -- there's one loan with  
24 Tri-Corp, directly with Tri-Corp, correct?

25 A That is correct.

1 Q And that is the loan that is represented in Exhibit  
2 3, correct?

3 A And I do understand why you call it Housing With  
4 Help. I believe as a program it was still  
5 referenced that way.

6 Q Okay. Well, what I want to do, I want to talk about  
7 this, and then we're going to give a shorthand name  
8 to it.

9 A Okay.

10 Q This loan is the -- Exhibit 3, this is a note and  
11 mortgage for the loan which is the subject of this  
12 foreclosure proceeding, correct?

13 A That is correct.

14 Q And this loan is secured by, first of all, this  
15 property West Samaria?

16 A Yes.

17 Q On the Richardson Place address. And it's also  
18 secured by property -- what is it known as, the  
19 other one?

20 A New Samaria.

21 Q New Samaria. Where is that located?

22 A Sixty-seven hundred West Beloit.

23 Q So Exhibit Number 3, and that's secured by West  
24 Samaria and New Samaria. All right. Why don't  
25 we -- can we refer to this as the Samaria loan?

1 Q And Exhibit Number 8 is a copy of the financial  
2 statements for Tri-Corp Housing Inc. for the years  
3 ended December 31, 2006 and 2005, right?

4 A Yes.

5 Q And these are financial statements that Tri-Corp  
6 Housing Inc. supplied to WHEDA, correct?

7 A Yes.

8 Q And it's your understanding, Mr. Brever, that WHEDA  
9 did require, pursuant to loan documents, you supply  
10 annual or semiannual financial statements?

11 A Yes.

12 Q And you understood that when presenting these  
13 financial statements, that Tri-Corp was providing  
14 this as a representation of the financial condition  
15 of Tri-Corp as of the date of each statement,  
16 correct?

17 A Yes.

18 Q All right. Now, I want you to take a look at  
19 Exhibit Number 7, if you would. And if you go to  
20 the third page of the exhibit, itself.

21 A So page number three?

22 Q No, no. The actual third page of that particular  
23 exhibit.

24 A Okay.

25 Q At the top, it says, independent auditor's report,

1                   correct?

2   A    Okay. Right.

3   Q    Now, I'd like you to read please the last full  
4                   paragraph of that statement.

5   A    The accompanying financial statements have been  
6                   prepared assuming that Tri-Corp Housing Inc. will  
7                   continue as a going concern. As discussed in Note 1  
8                   to the financial statements, Tri-Corp Housing has  
9                   suffered recurring losses, negative cash flows, and  
10                  has current liabilities which significantly exceed  
11                  current assets, which raise substantial doubt about  
12                  the ability of Tri-Corp Housing Inc. to continue as  
13                  a going concern. Management's plans in regard to  
14                  these matters are described in Note 1. The  
15                  financial statements do not include any adjustments  
16                  that might result from the outcome of this  
17                  uncertainty.

18   Q    Now, you had seen that before you supplied this to  
19                  WHEDA, had you not?

20   A    Yes.

21   Q    And you agree with that statement by your auditors,  
22                  correct?

23   A    Well, it's a statement from our auditors.

24   Q    But I mean you don't have any reason to disagree  
25                  that that's a correct statement.

1 Q Exhibit 7. The numbered page seven. I want to talk  
2 about Note 1.

3 A Okay.

4 Q Now, it appears to me that this is the Note 1 that  
5 the auditor's referring to in that last thing you  
6 read as discussed in Note 1 of the financial  
7 statement. Does that appear correct to you?

8 A I see nothing else referenced as Note 1, so I would  
9 presume that this is the Note 1 that the audit  
10 refers to.

11 Q Now, if you look at numbered page eight. And  
12 there's a section there that says going concern.  
13 And the auditor states as follows: At December 31,  
14 2005, Tri-Corp is in arrears in paying amounts to  
15 vendors, and its current liabilities exceed its  
16 current assets by approximately \$860,000. That  
17 statement is correct, is it not?

18 A It's in the audit.

19 Q Correct. So I mean if it's in the audit, you would  
20 assume it's correct.

21 A I would assume it's correct, yes.

22 Q Okay. I want you to take a look at Exhibit Number  
23 8, if you would. And, again, if you take a look at  
24 the third page of Exhibit Number 8. And, again,  
25 it's the independent auditor's report. And on that

1                   rejected in 2007, correct?

2   A   Yes.

3   Q   And, similarly, Exhibit Number 11 is another -- is a  
4                   payment being rejected in April of 2007 for the  
5                   Packard Hall property, correct?

6   A   I'm sorry, what number are you on now?

7   Q   Eleven. Nine, 10, 11. You got 11?

8   A   I do. You're referencing it as the Packard Hall  
9                   payment. I'm not certain I see any reference to  
10                  that.

11   Q   I've got the wrong one. Exhibit Number 11 is an  
12                  E-mail exchange between you and Dan Prast of WHEDA.  
13                  And this regards, generally, defaults in your  
14                  mortgage payments, generally, correct?

15   A   Delays, yes.

16   Q   Delays. Okay. All right. So we have the spring of  
17                  2007, and there are a series of delayed payments and  
18                  ACH rejections in payments made by Tri-Corp to WHEDA  
19                  for the various loans that were outstanding,  
20                  correct?

21   A   Yes.

22   Q   And then is it not true, Mr. Brever, that there  
23                  actually was a formal default with respect to the  
24                  May payment that was due on the Samaria loan?

25                   MR. MACHULAK: Let me object to the question

1 as being vague, and perhaps asking for a legal  
2 question. What do you mean by a formal default?

3 MR. KRILL:

4 Q Well, let me say this. Let me just say this.

5 Tri-Corp did not make the payment due for the month  
6 of June, 2007 for the Samaria loan, did it?

7 A I'm not sure. I thought it was July, the date that  
8 we're talking about.

9 Q Okay.

10 MR. KRILL: Mark this as Exhibit Number 12.

11 (Exhibit Number 12 was marked for  
12 identification)

13 MR. KRILL:

14 Q Exhibit Number 12 is a letter dated July 2, 2007 to  
15 you from Nelson Flynn of WHEDA, is it not?

16 A It would appear to be that, yes.

17 Q And that letter is actually a notice of default, is  
18 it not?

19 A It is.

20 Q And this is a notice of default that WHEDA gave you  
21 with respect to the Samaria loan, isn't that true?

22 A Yes.

23 Q And is there anything -- let's look at the first  
24 paragraph of this notice of default on Exhibit  
25 Number 12. WHEDA sets out the nature of the

1 to argue with the word default.

2 A I couldn't argue with the letter. The letter is  
3 what it is.

4 Q And this letter was sent because --

5 MR. MACHULAK: Well, let me just -- if  
6 you're asking him about the letter, to the extent it  
7 calls for a legal conclusion, it says WHEDA may also  
8 proceed to exercise further rights. We disagree  
9 that WHEDA should have been able to do that.

10 MR. KRILL: I understand. I understand. I  
11 understand that.

12 Q But my question to you is this. Is that Tri-Corp  
13 had not made the payment, I think it was for the  
14 month of June of 2007, correct?

15 A It was my recollection that it was July, but I can't  
16 argue with the letter. The letter says what it  
17 says.

18 Q And after receiving Exhibit Number 12, is it not  
19 true that Tri-Corp never cured the default that is  
20 set forth in Exhibit Number 12?

21 MR. MACHULAK: Well, object to the -- that  
22 it's calling for a legal conclusion.

23 MR. KRILL: That's fine.

24 Q You can answer the question.

25 A If your question is were funds forwarded to WHEDA,

1           the answer is no.

2   Q       All right. And did Tri-Corp make any payment on the  
3           Samaria loan in the month of August of 2007?

4   A       No.

5   Q       Did Tri-Corp make any payment on the Samaria loan in  
6           September, 2007?

7   A       No.

8   Q       Did Tri-Corp make any payment on the Samaria loan  
9           for October, 2007?

10   A       No.

11   Q       How about November, 2007?

12   A       No.

13   Q       How about December, 2007?

14   A       No.

15   Q       As a matter of fact, Tri-Corp never made a single  
16           payment on the Samaria loan subsequent to July 2,  
17           2007, the date of Exhibit 12, correct?

18   A       I believe that's correct.

19   Q       Very good. Okay. Let's talk about Packard Hall.  
20           That was the loan that's referenced in Exhibit  
21           Number 6. And, again, I want to refer back to July  
22           2, 2007, which is the date of Exhibit 12. To your  
23           knowledge, Mr. Brever, did Tri-Corp make any payment  
24           on the Packard Hall loan subsequent to July 2, 2007?

25   A       I don't really know that.

1 MR. KRILL:

2 Q Do you know what the word default means? If you're  
3 in default of a loan obligation?

4 A I think that would mean that an action has been  
5 taken by your lender.

6 Q But the default -- let me do this. Let's look at it  
7 this way. Is it not true, Mr. Brever, that by July  
8 of 2008, WHEDA commenced a mortgage foreclosure  
9 action against Southeast Affordable Housing to  
10 foreclose on the Packard Hall property?

11 A I don't recall the specific date. But yes, there  
12 was an action started against Packard Hall.

13 (Exhibit Number 13 was marked for  
14 identification)

15 MR. KRILL:

16 Q I'm going to show you what we marked as Exhibit  
17 Number 13. Mr. Brever, you will acknowledge this is  
18 a copy of the summons and complaint that was filed  
19 by WHEDA against Southeast Affordable Housing in  
20 connection with foreclosing on the Packard Hall  
21 property, correct?

22 A I believe that's correct.

23 Q And would you agree that ultimately WHEDA took  
24 judgment of foreclosure?

25 A That's what my attorney informed us.

1 Q I want to show you what we marked as Exhibit 14.

2 (Exhibit Numbers 14 and 15 were marked for  
3 identification)

4 MR. KRILL:

5 Q I'm going to show you Exhibit Number 14, Mr. Brever.  
6 It is a copy of the judgment for foreclosure for the  
7 Packard Hall property, correct?

8 A It appears that that's it, yes.

9 Q And Exhibit Number 15 is a copy of a stipulation for  
10 judgment of foreclosure is it not?

11 A It appears that that's what it is, yes.

12 Q And this demonstrates that Southeast Affordable  
13 Housing Corporation actually consented to the entry  
14 of default -- of the judgment of foreclosure,  
15 correct?

16 A Our attorney has signed representing us.

17 Q And you authorized your attorney to do that, right?

18 A Yes.

19 Q Now, is it not true, Mr. Brever, that sometime  
20 certainly before July 7, 2008, the date the Packard  
21 Hall foreclosure was commenced, that Tri-Corp ceased  
22 making payments on the Packard Hall loan?

23 A I believe that's correct.

24 Q So by July 7, 2008, Tri-Corp had ceased making  
25 payments on the Packard Hall loan, and it had for

1 approximately a year not made any payments on the  
2 Samaria loan, correct?

3 A I believe that that's correct.

4 Q And as a matter of fact, that during that same time  
5 frame, say July, '07 to July, '08, Tri-Corp ceased  
6 making payments on the SCO 2 loan also, did it not?

7 A That could be.

8 Q Do you have -- I mean you don't know whether that's  
9 true or not?

10 A Off the top of my head, I'm not personally familiar.  
11 If you have the record, I could review it and  
12 probably certify that, yeah.

13 Q All right.

14 MR. KRILL: Why don't we take a break.

15 (Short recess was taken)

16 MR. KRILL:

17 Q All right, Mr. Brever, back on the record. Just to  
18 kind of recap. Now, we have three loans we talked  
19 about. We have the SCO 2 loan, we have the Packard  
20 loan, and we have the Samaria loan, correct?

21 A Yes.

22 Q All right. And the SCO 2 loan is a loan which was  
23 in the name of Southern Community Organization,  
24 correct?

25 A South Community. But yes.

1 like one month we decide not to send a check.

2 Q No, I understand. I understand. But what I'm  
3 wondering about is, I understand that things  
4 happened over at West Samaria, which you say put  
5 some pressure on your ability to pay that mortgage.  
6 But there's nothing going on at Packard or SCO 2. I  
7 mean those continued to operate just as they have in  
8 the past, correct?

9 A Correct.

10 Q Okay. The payments on the Samaria loan were about  
11 12,000 a month, correct?

12 A No.

13 Q How much were they?

14 A Payments on the Samaria loan were about 18,000 a  
15 month. You're talking principle and interest.

16 Q Right.

17 A In addition to a \$300,000 replacement reserve, WHEDA  
18 took an additional payment to increase the reserve  
19 on a monthly basis.

20 Q So, but after July of 2007, that was no longer  
21 coming out of your account, correct?

22 A Correct.

23 Q So that was \$18,000 less in expenses that you were  
24 incurring every month.

25 A Right. Correct.

1           damages.

2   A    Okay.

3   Q    Now, I note on page six, there is a statement of  
4           damages.

5   A    Okay.

6   Q    And, curiously, the statement doesn't have any  
7           numbers on there at all.

8   A    Right.

9   Q    And what I'd like to know is, I want to have the  
10          number provided to me today, and then I want to  
11          determine how you calculated it. Then I want to  
12          know which documents support it, okay?

13   A    Okay.

14   Q    So the first item you have here, and I mean -- okay.  
15          Loss in value of West Samaria and other properties.

16   A    Right.

17   Q    The first thing, you know, I need to have that  
18          number specified. What is it?

19   A    The value of West Samaria, in my mind, is the value  
20          of the 92 beds at -- we are property tax exempt at  
21          West Samaria. So you can't look at assessed value  
22          as a calculation of loss. At New Samaria we have 75  
23          beds. And the assessed value in the City of West  
24          Allis is approximately \$1.2 million. Based on that,  
25          the value of a bed for chronically mentally ill

1 supportive housing is, I believe, in the 16 or  
2 \$17,000 range. That would probably mean that the  
3 value of West Samaria as a placement facility for  
4 chronically mentally ill would be in the 1.5, \$1.6  
5 million range. The other calculation that I might  
6 take a look at is what Milwaukee County is doing to  
7 replace those beds. Heartland and Mercy both have  
8 24 bed campuses that either are under construction  
9 or have already been constructed. Those campuses  
10 cost in excess of a million dollars. In a situation  
11 like that, the value of a bed is -- I can't do the  
12 math that quick. But I believe about \$45,000.

13 Based on that --

14 Q Well, I --

15 MR. MACHULAK: Let him finish.

16 THE WITNESS:

17 A Based on that, you're looking at maybe 3 1/2, \$4  
18 million.

19 MR. KRILL:

20 Q Okay. Now, I'm going to break this down, because I  
21 ultimately want to get all the figures here. Who is  
22 the witness that you will be calling to calculate  
23 the damages that are set forth here, loss of value  
24 of West Samaria and other properties?

25 A I will be testifying based on lost rents and

1           came up with the calculation please.

2   A    I would give you the calculation, and then come up  
3           with the number.

4   Q    Okay. Please do that.

5   A    I believe the way to do this is to look at the  
6           replacement cost of the beds that were lost at West  
7           Samaria. My understanding is that two new campuses  
8           being designed by Heartland and Mercy are costing  
9           over a million dollars apiece, and are generating 24  
10          beds. I think you would take the million dollars,  
11          divide by the 24 beds, and calculate the cost of  
12          what 92 beds provide to the community. And I think  
13          that that number comes, approximately, to \$4.2  
14          million.

15   Q    Okay. And then so that includes both East Samaria  
16          and West Samaria?

17   A    No. I do believe you could come up with a more  
18          objective calculation for New Samaria based on the  
19          fact that it is a taxable property. West Allis does  
20          assess it at \$1.2 million.

21   Q    It still does, doesn't it?

22   A    One point one seven, 1.18, somewhere -- roughly \$1.2  
23          million.

24   Q    It still does.

25   A    I'm sorry?

1           important for Tri-Corp to take a look at these  
2           facilities and figure out whether the revenue  
3           generated meets or exceeds the expense, correct?

4     A    That is correct.

5     Q    And it's a nice thing when a facility is run so that  
6           the revenue exceeds the expenses, isn't it?

7     A    That is correct.

8     Q    Because that now could be used for other things  
9           perhaps, right?

10    A    Potentially.

11    Q    All right. Okay. And what do you --

12    A    Like losses on other campuses.

13    Q    In the nonprofit world -- in the profit world, we  
14           call that a profit. In the nonprofit world, what do  
15           you call that?

16    A    Profit.

17    Q    Okay. Good. Now, what was the annual monthly  
18           profit at West Samaria for the year 2006?

19    A    The two Samaria campuses were a mission driven  
20           service model. They were not what you might term  
21           loosely cash cows.

22    Q    I see.

23    A    This provided housing for 167 individuals who were  
24           chronically mentally ill. My board of directors  
25           made the commitment that that was what we were going

1 to do. It was not driven by a profit motive. So it  
2 was a break even venture.

3 Q Okay. Is it possible that revenues for 2007 -- or  
4 2006 were less than expenses?

5 MR. MACHULAK: For 2006, or --

6 MR. KRILL: Two thousand six, yeah.

7 MR. MACHULAK: You have the figures there.

8 MR. KRILL: Well, I got a bunch of -- I'm  
9 here to ask him.

10 MR. MACHULAK: I know. Asking him in the  
11 absence of documents is different than --

12 MR. KRILL: Well, I know.

13 MR. MACHULAK: I mean do you want him to  
14 look at the documents? We provided them all to you.  
15 I didn't bring my own set.

16 MR. KRILL: Well, I mean, quite frankly, I  
17 had thought you were going to bring the documents,  
18 and I was going to simply ask him to pull out the  
19 documents.

20 MR. MACHULAK: I delivered them. You got  
21 them yesterday.

22 MR. KRILL: Those were the documents that we  
23 selected.

24 MR. MACHULAK: They're in -- I'm positive  
25 they're in your selection.

1 give an affidavit in that regard.

2 MR. MACHULAK: All right.

3 MR. KRILL: Okay? Can you do that say  
4 within ten days?

5 MR. MACHULAK: Yeah.

6 MR. KRILL: Okay. All right. So you have  
7 that to me by -- what day is today? The 10th.

8 March 20th. Okay. Very good.

9 EXAMINATION

10 BY MR. SMOKOWICZ:

11 Q Just a few questions. Mr. Brever, briefly, tell me  
12 about your educational background.

13 A I have a undergraduate degree, a Bachelor of Arts  
14 from UWM, I have a master's degree in management  
15 from Cardinal Stritch University. I attended high  
16 school at a Catholic seminary.

17 Q What was your major at UWM?

18 A I had a Bachelor of Arts with a focus on history.

19 Q With a what?

20 A Focus on history. But it's actually a Bachelor of  
21 Arts General that I was awarded.

22 Q Is it correct that you do not have any degrees in  
23 accounting?

24 A I have a Masters degree in management.

25 Q Mr. Brever, would you please for once today answer a

1           this witness is answering -- not answering  
2           questions, I'm not going to tolerate it.

3           MR. SMOKOWICZ: John, let your witness  
4           answer the question.

5   Q    What's -- do you have a degree in accounting?

6   A    I do not.

7   Q    Okay. Thank you very much on that one.

8   A    You're welcome.

9   Q    Now, Mr. Brever, were you involved at all in the  
10       original purchase -- you mentioned some purchase of  
11       this property back in the 1970s by an individual.  
12       Were you involved in that at all?

13      A    I was not.

14      Q    Are you familiar with the purchase price that was  
15       paid for the property back then?

16      A    I am not.

17      Q    So you have no idea what the property was purchased  
18       for, correct?

19      A    I presume we're talking West Samaria now.

20      Q    Yes.

21      A    I have no idea what was paid in 1976.

22      Q    Now, what was the purpose of the mortgage that you  
23       took out -- or that Tri-Corp took out on the  
24       property? From WHEDA.

25      A    Remember that initially the mortgage was taken out

1           in 1993 by Housing With Help. I believe the purpose  
2           of that mortgage, at that time, was to purchase the  
3           buildings in the name of Housing With Help from  
4           Joseph Apollo.

5       Q     Okay.

6       A     In 2003, Tri-Corp sold East Samaria and purchased  
7           New Samaria, and the mortgage was rewritten to  
8           accommodate the two parcels.

9       Q     All right. So the mortgage that we were talking  
10          about with respect to New Samaria included, at least  
11          in part, a purchase of West Samaria, is that  
12          correct?

13      A     No.

14      Q     Okay.

15      A     Just a transfer of title.

16      Q     So the last time that the building that is now  
17          referred to as West Samaria was purchased in any  
18          form or other was the purchase by Housing With Help  
19          from Mr. Apollo, correct?

20      A     I believe that's correct, yes.

21      Q     Now, what was the purchase price for that, if you're  
22          familiar with it?

23      A     I'm not familiar with it.

24      Q     Do you have any documents that relate to that?

25      A     I personally did not bring any today. I really

1 A I took the pay cut in 2008, and it carries forward.

2 Q And when in 2008 did you take the pay cut?

3 A I believe it was January 1.

4 Q And why did you take the pay cut?

5 A Tri-Corp was having issues with cash flow, and I  
6 made a voluntary concession to ease some of that.

7 Q Was that at the request of the board, or at your own  
8 suggestion?

9 A Neither. I just did it.

10 Q With respect to the operation that you have at New  
11 Samaria, that continues to this date, correct?

12 A It does.

13 Q And what's the occupancy there now?

14 A I believe we have 70 beds full.

15 Q And do you charge the same amount for each one of  
16 those beds?

17 A No.

18 Q What is the range then you charge for those beds?

19 A I believe 72 beds are charged 535 a month, and three  
20 beds are charged 560.

21 Q Okay.

22 A We also charge \$20 for laundry if any resident  
23 chooses to take advantage of it.

24 Q Are you making any payments for the mortgage that  
25 supports that property?

1 A No.

2 Q When was the last time you made a payment for the  
3 mortgage that supports that property?

4 A I believe it was the time frame that Mr. Krill  
5 referenced, July of 2007.

6 Q And why have you not made any payments since July  
7 2007 to support that property?

8 A Cash flow does not allow us to do so.

9 Q So what is that income that's being generated by  
10 that property being used for?

11 A We have 12 individuals that work in that building  
12 providing 24 hour staffing. We pay utilities. We  
13 provide three meals a day, 365 days a year. There  
14 is maintenance and upkeep of the facility.

15 Q So, in essence, what you're saying is that every  
16 single penny that you bring in in revenue in that  
17 property is being consumed entirely by the expenses  
18 for that property.

19 A At this point in time.

20 Q And for how long has that been the case?

21 A Since West Samaria closed.

22 Q Were the expenses any different before West Samaria  
23 closed for that property?

24 A When West Samaria was at peak occupancy, there was  
25 the ability to accommodate all of our expenses

1 Machulak, I'd also like to have the right, at some  
2 point, to see the documents. I know you produced  
3 them for Mr. Krill. But I have not had an  
4 opportunity. I was not invited to come see them,  
5 but I'd like to see them.

6 MR. MACHULAK: You're always welcome, Jan.  
7 Why do you need an invitation.

8 EXAMINATION

9 BY MR. KRILL:

10 Q I have just two questions. Mr. Brever, you're not a  
11 real estate appraiser, are you?

12 A I am not.

13 Q Have you had any training in real estate appraising?

14 A I have not.

15 Q Have you been involved with Tri-Corp when Tri-Corp's  
16 purchased properties?

17 A I have.

18 Q And when Tri-Corp purchases a property, do you  
19 generally get an appraisal of the property?

20 A We do.

21 MR. KRILL: That's all I have.

22 MR. SMOKOWICZ: One item off the record for  
23 a minute.

24 (Discussion off the record)

25 MR. SMOKOWICZ: One other request I'm going